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5 Attorneys for Defendants PEERLESS INSURANCE COMPANY, LIBERTY MUTUAL  
FIRE INSURANCE COMPANY and GOLDEN EAGLE INSURANCE  
6 CORPORATION

7

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10

11 SHAW MORTGAGE )  
12 CORPORATION dba )  
13 PATIOSOURCE & THE NATURAL )  
TOUCH, a California Corporation )

14 Plaintiffs,

15 v.

16

17 PEERLESS INSURANCE )  
18 COMPANY, a New Hampshire )  
19 Company; GOLDEN EAGLE )  
20 INSURANCE CORPORATION, a )  
California Corporation; LIBERTY )  
21 MUTUAL INSURANCE COMPANY, )  
a Massachusetts Company; and DOES )  
22 1 – 20, inclusive,

23 Defendants.

) CASE NO.: 08 CV 0709 BTM AJB  
SDSC Case No. 37-2007-00084451-CU-BC-  
CTL

) **NOTICE OF MOTION AND MOTION  
TO DROP GOLDEN EAGLE  
INSURANCE CORPORATION AS A  
SHAM DEFENDANT PURSUANT TO  
F.R.C.P. RULE 21; MEMORANDUM  
OF POINTS AND AUTHORITIES IN  
SUPPORT THEREOF;  
DECLARATION OF DALE A.  
AMATO**

) [Per Chambers, no oral argument  
unless requested by the Court.]

) **DATE: 6-6-08  
TIME: 11:00 a.m.  
COURTROOM: 15**

) Date Complaint Filed: 12/21/2007

25 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:  
26 PLEASE TAKE NOTICE that on June 6, 2008, or as soon thereafter as the matter  
27 may be heard at the above-captioned court, located at 880 Front Street, San Diego,  
28

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1 California, 92101, Defendant Peerless Insurance Company ("PEERLESS") will move  
2 this court to drop improperly joined defendant Golden Eagle Insurance Corporation  
3 ("GOLDEN EAGLE") from this lawsuit. This motion is brought pursuant to Rule 21 of  
4 the Federal Rules of Civil Procedure, and is made on the grounds that GOLDEN EAGLE  
5 is a sham defendant, named only to defeat diversity jurisdiction as it was not the insuring  
6 entity identified on the policy of insurance that is attached as an exhibit to the Plaintiff's  
7 First Amended Complaint.

8 This Motion is based upon this Notice of Motion, the accompanying  
9 Memorandum of Points and Authorities, the Declaration of Dale A. Amato and the entire  
10 court file in this matter, and on such other argument and evidence that may be presented  
11 at the hearing on this Motion.

12 DATED: April 18, 2008

13 BERGER KAHN  
A Law Corporation

14 By: S/Dale A. Amato  
15 DALE A. AMATO  
16 Attorneys for PEERLESS  
17 INSURANCE COMPANY, LIBERTY  
18 MUTUAL FIRE INSURANCE  
COMPANY and GOLDEN EAGLE  
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